

Serial No.: 10/601,771

Group Art Unit: 3761

REMARKS/ARGUMENTS

Claims 1 through 6 and 8 through 73 remain pending in this application. Claim 7 has been cancelled.

Claim 37 has been amended for clarification.

Claims 1 through 10, 13 through 22, 32 through 61, 63, 64, and 66 through 73 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Suga, U.S. Patent Application Publication No. 2001/0056253 (hereinafter "Suga") in view of Berger et al. U.S. Patent No. 3,895,634 (hereinafter "Berger").

Claim 1 recites a tampon applicator that includes a barrel. The barrel has a tapered insertion tip with a plurality of petals. The insertion tip has a taper ratio greater than 1 to about 8. The taper ratio is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the plurality of petals. The plurality of petals each have a thickness of about 0.004 inches to about 0.022 inches. The plurality of petals have a substantially uniform thickness.

Independent claim 37 recites a tampon applicator that includes a barrel with a tapered insertion tip. The tapered insertion tip has a taper ratio represented by a ratio of a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of one or more petals of greater than 1 to about 8. The barrel is formed from a material selected from the group consisting of cardboard, cardboard laminate, paper, paper laminate, pulp slurry, paper slurry, biopolymer, pulp-molded paper, and any combinations thereof.

The Action asserts that Suga discloses a tampon applicator having a taper ratio of 3 to 4. The Action also asserts that the taper projection length is equal to a tapered tampon

Serial No.: 10/601,771

Group Art Unit: 3761

length identified by reference letter A that equals 20 to 60 mm. The Action further asserts that the taper ratio is equal to a tapered length A divided by a barrel radius identified by reference letter D that is equal to 8 to 20 mm. Applicants respectfully disagree.

Suga provides that "the insertion region 21 has a length corresponding to a full length A of the tampon 4". (paragraph 0011, lines 9-11). Suga further provides that a "full length L of the outer cylindrical tube 2 is defined by an insertion region 21 intended to be inserted into the vaginal canal of the user when the tampon 4 is actually used and a grip region 22 intended to be held by the user's fingers." (paragraph 0011, lines 7-8). Thus, the full length A described by Suga includes the entire cylindrical tube of Suga except for the grip region. Furthermore, Suga provides that "an outer diameter D of the outer cylindrical tube 2 may be appropriately dimensioned so far as the outer cylindrical tube 2 can be smoothly inserted into the vaginal canal, the outer diameter D is preferably dimensioned in a range of 8~20 mm." (paragraph 0011, lines 15-19). Thus, a taper ratio that is equal to a tapered length A divided by a barrel radius identified by reference letter D of Suga is not equal to a taper ratio that is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the one or more of petals, as provided in claims 1 and 37. Moreover, Suga merely provides that diameter D is in a range between 8~20 mm and does not disclose or suggest tapering of any kind. Moreover, as clearly shown in Figures 1 and 2, the Suga cylindrical tube includes an insertion portion having a uniform diameter D and what appears to be a conventional rounded tip. Thus, Suga neither discloses nor suggests a tapered insertion tip, as recited by claims 1 and 37, let alone an insertion tip that has a taper ratio greater than 1 to about 8 in which the taper ratio is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the one or more of petals, as provided in claims 1 and 37. Furthermore, Suga fails to disclose a plurality of petals that each have a thickness of about 0.004 inches to about 0.022 inches, let alone a plurality of petals that have a substantially uniform thickness, as recited by claim 1.

Serial No.: 10/601,771

Group Art Unit: 3761

Berger, which is owned by the assignee of the present application, describes a tampon inserter including a cylindrical, hollow tubular member adapted to contain a tampon and having a tapered front insertion end and an opening in its rear end. The mean cross-sectional wall thickness of the cylindrical portion of the tubular member is of a predetermined thickness sufficient to provide wall stability to the tubular member prior to, during, and following the tampon ejection. The mean cross-sectional wall thickness of triangular segments is of a predetermined thickness sufficient to provide flexibility to the segments during tampon ejection. The mean wall thickness of the triangular segments is substantially less than the mean wall thickness of the cylindrical portion of the tubular member. As conceded by the Action, Berger does not expressly disclose a taper ratio. Therefore, Berger cannot cure any deficiency noted above with respect to Suga.

Accordingly, Applicants respectfully submit that Suga and Berger alone or in combination fail to disclose or suggest all of the claimed features recited in claims 1 and 37, as well as claims 2 through 10, 13 through 22, 32 through 36, and claims 38 through 61, 63, 64, and 66 through 71 that depend from claims 1 and 37, respectively.

Independent claim 72 recites a tampon applicator including a tapered barrel and an insertion tip. The tapered barrel has a taper ratio of about 1.2 to about 8. The taper ratio is a ratio of a largest radius of the tapered barrel to a radius of the tapered barrel at a base region of the insertion tip.

Suga and Berger are described above.

As noted above, the Action incorrectly characterizes Suga as disclosing a tampon applicator having a taper ratio of 3 to 4. As discussed above, the full length A described by Suga includes the entire cylindrical tube of Suga except for the grip region and does not disclose or suggest tapering of any kind. Also, as discussed above, the Suga cylindrical tube includes an insertion portion having a uniform diameter D and what appears to be a conventional rounded tip. Therefore, Suga does not disclose or suggest a taper ratio, let alone a taper ratio of a ratio of a largest radius of the tapered barrel to a radius of the tapered barrel at a base region of the insertion tip or a taper ratio of about 1.2 to about 8.

Serial No.: 10/601,771

Group Art Unit: 3761

Applicants respectfully submit that Berger fails to disclose or suggest a barrel taper ratio. On page 4, the Action concedes that Berger does not expressly disclose a barrel taper ratio. Therefore, Berger cannot cure any deficiency noted above with respect to Suga.

Accordingly, Applicants respectfully submit that Suga and Berger alone or in combination fail to disclose or suggest all of the claimed features recited in claim 72, and claim 73 that depends therefrom.

As such, Applicants respectfully request reconsideration and withdrawal of the §103(a) rejection of claims 1 through 10, 13 through 22, 24, 25, 27, 28, 30 through 61, 63, 64, and 66 through 73.

Claims 11, 23, 26, 29, 62, and 65 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Suga in view of Berger in further view of Werner, U.S. Patent No. 3,765,416 (hereinafter "Werner").

Claims 11, 23, 26, 29 include the features of claim 1 described above.

Claims 62 and 65 include the features of claim 37 described above.

Suga and Berger are summarized above. Werner provides a positive locking arrangement which depends primarily on friction between cooperating portions of the tubes to provide a positive forward lock. The applicator has a pair of telescoping plastic tubes. The outer tube is of right cylinder construction with a substantially uniform internal diameter except for a small portion of the interior adjacent the trailing end. At the trailing end the internal diameter is gradually decreased to provide a rear opening of a predetermined smaller diameter.

As discussed above, Suga and Berger taken alone or in combination, fail to disclose or suggest a tapered insertion tip, as recited by claims 1 and 37, let alone an insertion tip

Serial No.: 10/601,771

Group Art Unit: 3761

that has a taper ratio greater than 1 to about 8 in which the taper ratio is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the one or more of petals, as recited by claims 1 and 37. Furthermore, Suga and Berger taken alone or in combination fail to disclose or suggest a plurality of petals that have a substantially uniform thickness, as recited by claim 1.

Werner fails to cure any of the deficiencies of Suga and Berger in that Werner also fails to disclose or suggest a taper ratio greater than 1 to about 8 in which the taper ratio is a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of the plurality of petals, as recited by claim 1, or a tapered insertion tip that has a taper ratio represented by a ratio of a length of a projection of the insertion tip taper along a longitudinal axis of the barrel to a length of a projection of the insertion tip taper along a radius of the barrel at a base region of one or more petals of greater than 1 to about 8, as recited by claim 37. Furthermore, Werner fails to disclose or suggest a plurality of petals that have a substantially uniform thickness, as recited by claim 1. Werner provides an inner diameter A of the outer tube throughout a major part of its length is about .579 inch and a rear opening of the outer tube has an inner diameter of about .556 inch. The inner diameter A is of the barrel and the inner diameter B is of an end opposite to a tapered tip as clearly shown in Figures 1 and 2. Therefore, Suga, Berger, and Werner, taken alone or in combination, fail to disclose or suggest the claimed invention recited in claims 1 and 37.

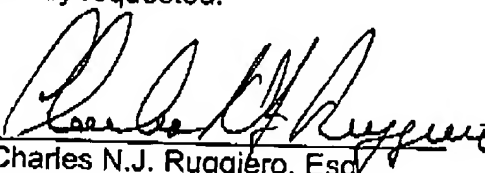
Thus, claims 11, 23, 26, and 29 depending from claim 1 and claims 62 and 65 depending from claim 37 are also patentable over the cited art, taken alone or in combination. As such, Applicants respectfully request reconsideration and withdrawal of the §103(a) rejection of claims 11, 23, 26, 29, 62, and 65.

Serial No.: 10/601,771

Group Art Unit: 3761

In view of the above, reconsideration and withdrawal of the rejections and passage of this application to allowance are respectfully requested.

February 15, 2006



Charles N.J. Ruggiero, Esq.
Registration No. 28,468
Attorney for Applicants
Ohlandt, Greeley, Ruggiero & Perle, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
Tel: (203) 327-4500
Fax: (203) 327-6401